

1 CALDWELL LESLIE & PROCTOR, PC  
2 LINDA M. BURROW, State Bar No. 194668  
3 *burrow@caldwell-leslie.com*  
4 CAMERON J. JOHNSON, State Bar No. 266729  
5 *cjohnson@caldwell-leslie.com*  
6 FEIFEI B. JIANG, State Bar No. 301716  
7 *jiang@caldwell-leslie.com*  
8 725 South Figueroa Street, 31st Floor  
9 Los Angeles, California 90017-5524  
Telephone: (213) 629-9040  
Facsimile: (213) 629-9022

7 Attorneys for Defendants PARAMOUNT  
PICTURES CORPORATION, SONY  
PICTURES ENTERTAINMENT INC.,  
and VIACOM INC.

10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

12  
13 DAVID L. WHITEHEAD,

14 Plaintiff,

15 v.

16 MILLENNIUM FILMS; VERIZON  
17 INC.; PARAMOUNT PICTURES;  
VIAČOM; 20TH CENTURY FOX  
FILM; OPRAH WINFREY; TOM  
18 CRUISE; PAULA WAGNER; DAN  
SNYDER; JP MORGAN; COMCAST  
19 INC.; SONY; MOONBOT STUDIOS;  
CHIPOTLE MEXICAN GRILL;  
20 APPLE INC.; SHEILA C. JOHNSON;  
HARVEY WEINSTEIN; THE  
21 WEINSTEIN COMPANY; COLONEL  
J. GEORGE & S. SALOOM HANNIE  
22 COMMUNITY HOME, INC. and  
UNKNOWN OFFICERS;  
23 SOCKRIDER, BOLIN, ANGLIN &  
BATTE PLC; and UNKNOWN DOES  
24 1-50,

25 Defendants.

Case No. 15-CV-3564 RGK (AGRx)

**JOINT SCHEDULING  
CONFERENCE STATEMENT AND  
RULE 26(F) REPORT**

Date: February 22, 2016

Time: 9:00 a.m.

Crtrm.: 850

The Honorable R. Gary Klausner

1 Defendants Paramount Pictures Corporation, Sony Pictures Entertainment  
2 Inc., and Viacom Inc. (collectively, “Defendants”) and Plaintiff David L. Whitehead  
3 (“Plaintiff”) submit this statement and report pursuant to Federal Rule of Civil  
4 Procedure 26(f), Local Rule 26-1, and this Court’s Standing Order. This Report  
5 follows the Parties’ Rule 26(f)(1) conference on February 1, 2016.

6 **DEFENDANTS’ POSITIONS**

7 Plaintiff declined to participate in the preparation of a joint report, but instead  
8 provided “Plaintiff’s Joint Scheduling Conference Statement and Rule 26(F) Report  
9 As An Attachment to Defendant’s Statement,” which is attached hereto as Exhibit  
10 “A.” Defendants’ positions are set forth below.

11 **I. NATURE OF THE CASE**

12 Plaintiff is a vexatious litigant. He has, for years, made a practice of filing  
13 frivolous legal actions in numerous jurisdictions across the country in which he  
14 accuses dozens of defendants, including movie studios, lawyers, celebrities, and  
15 judges of conspiring to infringe his copyrighted works. This action is no different.  
16 Plaintiff alleges that numerous companies including Defendants, and individuals  
17 including celebrities Oprah Winfrey and Tom Cruise, somehow infringed his  
18 copyrighted works *The Rise Fall & Rise of a Mayor* and *Michael Jackson and the*  
19 *Ghost of Ben* (collectively, the “Works”) through their involvement in the films  
20 *Selma* and *Lee Daniel’s The Butler*, and, as alleged in Plaintiff’s recently filed  
21 proposed Amended Complaint (see ECF No. 105), *This Is It*. Plaintiff’s  
22 complaint—and each cause of action asserted therein—is meritless. After a two  
23 month wait, Defendants recently received copies of Plaintiff’s Works from the  
24 Copyright Office and intend shortly to file a motion for judgment on the pleadings  
25 asking this Court to dismiss, with prejudice, each of Plaintiff’s claims for relief.

26

27

28

1 **II. RULE 26(F) TOPICS**

2 ***A. Initial Disclosures***

3 Plaintiff is a well-known vexatious litigant and Plaintiff's claims are  
4 frivolous. Defendants intend to file a motion for judgment on the pleadings seeking  
5 dismissal of his claims. Accordingly, Defendants believe initial disclosures are  
6 premature and object to having to make such disclosures until after Defendants'  
7 dispositive motion has been decided.

8 ***B. Subjects on Which Discovery May Be Needed***

9 Because Plaintiff's claims are frivolous, Defendants believe it would be  
10 premature to agree upon a discovery plan. Defendants therefore request that  
11 discovery be stayed pending the resolution of their upcoming motion for judgment  
12 on the pleadings.

13 Should the Court decline to stay discovery or should Plaintiff's claims be  
14 allowed to proceed on the merits, Defendants anticipate conducting discovery on all  
15 of the claims alleged in Plaintiff's Complaint (ECF No. 1) and the defenses raised in  
16 Defendants' Amended Answers (ECF Nos. 79, 80, 81) and Responses to Plaintiff's  
17 Rule 9(b) Statement (ECF Nos. 55, 62, 65). Defendants anticipate that discovery  
18 will include requests for documents, requests for admission, interrogatories, and one  
19 or more depositions.

20 ***C. Electronically Stored Information***

21 Defendants do not currently foresee any issues about disclosure, discovery, or  
22 preservation of electronically stored information.

23 ***D. Issues Relating to Claims of Privilege or Protection as Trial-  
24 Preparation Material***

25 Defendants are not aware of any unusual issues relating to claims of privilege  
26 or protection as trial preparation material that require an agreement of the Parties or  
27 an order of the Court.

28

1 Defendants propose that privileged materials generated after the filing of the  
2 initial Complaint need not be listed on any privilege log. Defendants intend to  
3 assert any and all applicable privileges.

4 ***E. Limitations on Discovery***

5 Subject to Defendants' request that discovery be stayed pending the  
6 resolution of Defendants' anticipated motion for judgment on the pleadings,  
7 Defendants do not currently believe that there is any reason to alter or deviate from  
8 the normal limitations on discovery.

9 Plaintiff has requested permission to conduct depositions of ten (10)  
10 witnesses and proposes that each Defendant be limited to twenty-five (25)  
11 interrogatories. To the extent this Court allows discovery to go forward, and to the  
12 extent these requests conform to the limits set forth in Federal Rules of Civil  
13 Procedure 30(a)(2)(A)(i) and 33(a)(1), Defendants have no objection to Plaintiff's  
14 proposed limits. To the extent Plaintiff seeks to alter the normal limitations set forth  
15 in the Federal Rules, Defendants object. Defendants also reserve their right to seek  
16 a protective order if any of Plaintiff's discovery requests, including Plaintiff's  
17 interrogatories or requests for depositions, are unduly burdensome or otherwise  
18 objectionable.

19 ***F. Other Orders***

20 If discovery is allowed to proceed and Defendants are required to produce  
21 documents, Defendants anticipate that they will request, either through a stipulation  
22 or motion, that the Court enter a protective order regarding the production of their  
23 confidential information. The Parties do not currently anticipate the need for any  
24 other orders under Federal Rule of Civil Procedure 16(b), 16(c), or 26(c).

25

26

27

28

1 **III. ADDITIONAL MATTERS SET FORTH IN LOCAL RULE 26-1**

2 ***A. Complex Cases***

3 Defendants believe that this case should not involve highly technical or other  
4 complex matters that would require the utilization of all or part of the procedures of  
5 the Manual for Complex Litigation.

6 ***B. Dispositive Motions***

7 If Defendants' anticipated motion for judgment on the pleadings does not  
8 dispose of the case in its entirety, Defendants anticipate filing motions for summary  
9 judgment.

10 ***C. ADR***

11 Plaintiff is a well-known vexatious litigant and Plaintiff's claims are  
12 frivolous. Defendants are thus not amenable to any form of ADR.

13 ***D. Trial Estimate***

14 Defendants estimate that a jury trial in this matter will take no more than five  
15 (5) court days.

16 ***E. Additional Parties***

17 Plaintiff has filed two motions seeking leave to amend the Complaint to  
18 include additional parties including, *inter alia*, the Oprah Winfrey Network, Cirque  
19 du Soleil, Lee Daniels, and, most recently, iTunes. (ECF Nos. 105, 112.) In the  
20 spirit of civility, Defendants do not oppose Plaintiff's first seeking leave to amend.  
21 Defendants, however, intend to oppose Plaintiff's second motion, which not only  
22 seeks leave to add iTunes as a defendant but also leave to assert additional claims  
23 based on works not identified in the Complaint, including the feature films *Forrest*  
24 *Gump* and *Mission Impossible* and Plaintiff's work *Brains, Sex, & Racism in the*  
25 *CIA And The Escape*. (ECF No. 112 at 8.) Plaintiff asserts these new works in a  
26 blatant attempt to delay Defendants' ability to move for judgment on the pleadings  
27 by causing Defendants to have to address additional works, and, more important, to  
28 have to restart the months-long process of obtaining Plaintiff's newly identified

1 work *Brains, Sex, & Racism in the CIA And The Escape* from the Copyright Office.<sup>1</sup>  
2 Indeed, Plaintiff's intent to delay Defendants' motion is evident from the fact that,  
3 thus far, he has refused to produce complete copies of any of his Works.<sup>2</sup>

4 **IV. PROPOSED SCHEDULE**

5 Defendants propose that the Court decline to set a case schedule until after a  
6 decision on Defendants' motion for judgment on the pleadings. In the event the  
7 Court elects to set a schedule, Defendants propose the following:

8 <b>Event</b>	9 <b>Date</b>
10 Last Day to Amend Pleadings or Add Parties	11 March 21, 2016
12 Close of Fact Discovery	13 August 5, 2016
14 Last Day for Initial Expert Disclosures and Reports	15 August 19, 2016
16 Last Day for Rebuttal Expert Disclosures and Reports	17 September 2, 2016
18 Last Day for Supplemental Expert Disclosures and Reports	19 September 16, 2016
20 Close of Expert Discovery	21 September 30, 2016
22 Last Day to File Dispositive Motions	23 October 28, 2016

16  
17 <sup>1</sup> Notably, Plaintiff's claim that *Mission Impossible* is substantially similar to  
18 *Brains, Sex, & Racism in the CIA And The Escape* has already considered and  
19 thoroughly rejected by at least one court. *See Whitehead v. Paramount Pictures*  
20 *Corp.*, 53 F. Supp. 2d 38, 52, 54 (D.D.C. 1999) (concluding that Plaintiff's claims  
were "patently frivolous" and "objectively unreasonable").

21 <sup>2</sup> Plaintiff's first motion for leave to amend also asserted a new work, specifically,  
22 the screenplay version of *The Rise Fall & Rise of a Mayor*. (See ECF No. 105 at 11  
23 (asserting claims based on newly identified work registered as PAu3-039-708); ECF  
24 No. 102 at 2 (explaining that PAu3-039-708 is "the screenplay version of" *The Rise*  
*Fall & Rise of a Mayor*.) Plaintiff, however, previously attached excerpts of a  
25 work that is labeled as the "[s]creenplay" for *The Rise Fall & Rise of a Mayor* to his  
26 Motion for Leave to Amend to File Motion for Partial Summary Judgment. (ECF  
27 No. 90, Ex. B.) Defendants intend to rely on these excerpts in their motion for  
28 judgment on the pleadings so as not to further delay the motion. In an abundance of  
caution, Defendants also requested the deposit copy for PAu3-039-708 on February  
4, 2015, shortly after the first motion for leave to amend was filed.

1	Event	Date
2	Last Day for Mandatory Settlement Conference	December 16, 2016
3	Last Day to File Memoranda of Contentions of Fact and Law, 4 Witness List and Exhibit List	January 9, 2017
5	Last Day to File Motions <i>in Limine</i>	January 13, 2017
6	Last Day to File [Proposed] Jury Instructions	January 23, 2017
7	Final Pretrial Conference	January 30, 2017 at 8 9:00 a.m.
9	Trial Date	February 27, 2017 10 at 9:00 a.m.

11  
12 DATED: February 15, 2016 CALDWELL LESLIE & PROCTOR, PC  
13  
14 LINDA M. BURROW  
CAMERON J. JOHNSON  
FEIFEI B. JIANG  
15  
16

17 By \_\_\_\_\_ /s/  
18 LINDA M. BURROW  
19 Attorneys for Defendants PARAMOUNT  
20 PICTURES CORPORATION, SONY  
PICTURES ENTERTAINMENT INC., and  
VIACOM INC.  
21  
22  
23  
24  
25  
26  
27  
28